

**MINUTES OF THE MEETING
ESTUARY HABITAT RESTORATION COUNCIL
AT HEADQUARTERS, U.S. ARMY CORPS OF ENGINEERS
441 G STREET, N.W., WASHINGTON, DC
JANUARY 23, 2002**

The meeting convened at 10:00 a.m., with the following members present.

- **Mr. Dominic Izzo**, Principal Deputy Assistant Secretary of the Army (Civil Works), chair
- **Mr. R. Mack Gray**, Deputy Undersecretary, Natural Resources and Environment, Dept. of Agriculture;
- **Mr. Scott B. Gudes**, Deputy Undersecretary for Oceans and Atmosphere, Department of Commerce;
- **Ms. Suzanne Schwartz**, representing G. Tracy Mehan III, Assistant Administrator for Water, Environmental Protection Agency;
- **Mr. Hannibal Bolton**, representing Marshall Jones, Acting Director, U.S. Fish and Wildlife Service.

I. INTRODUCTORY COMMENTS:

Mr. Izzo expressed the Council's pleasure at having a draft strategy to review, and thanked the Working Group. He announced that a focus of this meeting would be to approve the draft for publication in the *Federal Register*, after which there will be a period for public comment.

He pointed out that the Administration's budget priorities for FY 03 will be homeland security and the war on terrorism; and in the Civil Works program major priorities will be Everglades restoration and salmon in the Pacific Northwest, as well as traditional navigation and flood damage prevention programs. It will take effort to convince Congress that estuary habitat restoration, as a new program, deserves funding alongside these priorities.

Mr. Gudes agreed that homeland security would be a priority, noting NOAA has diverted some fisheries enforcement agents to other law enforcement work, in some cases serving as sky marshals. He pointed out that NOAA received \$1.2 million in its FY 02 appropriation for estuary habitat restoration databases and coordination activities. Recently, he said, he took a helicopter tour of Louisiana, where he was amazed how much coastal land is now covered by water – clearly this is an area where projects are possible.

Mr. Gray agreed that competition for funding will be tough, but the Council mustn't give up. The first priority should be to get out a strategy that people can understand. The Act establishing the Council and the program has a sunset clause - a time limit for restoring a million acres of habitat. Dickering over strategy will thus reduce the time available to plan and carry out projects.

Ms. Schwartz said she anticipated there would be some funding for estuary habitat restoration, though possibly not as much as the Council would like. She thanked the Working Group for producing a draft strategy so quickly and, in the process, working through most of the issues that arose. The fact that there are only two issues left for Council debate is a tribute to their cooperative spirit.

II. APPROVAL OF MINUTES:

Minutes of the October 26, 2001, meeting were approved with addition of a written statement by **Mr. Richard Ribb**, Director of the Narragansett Bay, RI, Estuary Program, and Secretary of the Association of National Estuary Programs.

III. ADOPTION OF DRAFT STRATEGY:

Mr. Izzo introduced an 11-page draft strategy that had been distributed to council members the previous week. The Council members raised two issues for discussion. One was Mr. Izzo's desire for stronger language regarding collecting and analyzing trends data. Because there was some misunderstanding about the basis of the concern, he agreed to withdraw this issue. The second issue concerned the balance between "small" and "large" projects called for in the authorizing legislation. The draft defines a "small" project as one costing under \$1.0 million too high.

Mr. Gudes proposed a maximum Federal share of \$250,000 and a maximum acreage of 50 acres for small projects. With a \$1.0 million limit, he said, many worthwhile small projects Federal share – a figure the Corps of Engineers is comfortable with but other agencies consider could get lost in competition for funds, and opportunities to spread benefits to a larger number of locations would be lost. He noted that NOAA now has funding for very small projects – under \$100,000 – and said that these largely local efforts produce a great deal of benefit.

Mr. Gray agreed to a \$250,000 limit, but not to an acreage limit.

Ms. Schwartz agreed to the lower funding limit, saying that for EPA, \$1.0 million is a very large project.

Mr. Izzo expressed concern that, with smaller projects, there is a higher percentage of overhead, and said that really small projects can be carried out by local agencies.

Mr. Bolton said Fish & Wildlife Service would support both the \$250,000 and the 50-acre limit, since a larger number of projects would make it easier for the Council to report back to Congress how much the public is getting for its investment.

Ms. Schwartz proposed an either/or rule – a small project is one with a Federal share of \$250,000 or less or a project of 50 acres or less.

Mr. Gray said he would not like to see a project costing under \$250,000, but comprising 55 or 60 acres, lose out under an acreage limit.

Mr. Mark Wolf-Armstrong, Restore America's Estuaries, recalled that when the authorizing Act was being debated, the balance between small and large projects was seen as a way to ensure geographic balance and benefits for smaller estuaries as well as large ones such as Chesapeake Bay. He said he has seen \$100,000 projects do a lot of good, and warned that on larger projects, there is more front-end engineering cost.

Mr. Gray pointed to the cost-sharing requirements of the program – 35% Federal and 65% non-Federal funding. He said it would be easier to find a local sponsor willing to share costs on a \$250,000 project than one for \$1.0 million.

Mr. Gudes asked what percentage of projects had to be small.

Mr. Wolf-Armstrong said the number was not written into law; it will be up to the Council to determine.

Mr. Steve Funderburk, Fish & Wildlife Service, said the Wetlands Council, in implementing the North American Wetlands Conservation Act (NAWCA), faced similar issues. That council has a small grants program of up to \$50,000, and finds that local groups can do a lot with a grant that size. For larger projects, there are standard grants of up to \$1.0 million available.

Mr. Wolf-Armstrong warned the council to be careful of applying an acreage metric, and suggested instead “an acre or other ecological equivalent.”

Mr. Izzo suggested that small projects be defined as “generally” those with a Federal share of \$250,000 or less and covering 50 acres or less. If a project proposal comes in that is a bit above either limit, it will be up to the Council to vote on whether it should be considered a small or large project. The other members of the Council agreed to this suggestion. Mr. Izzo announced that, at its next meeting in April, the Council would consider comments received from the public in preparing a final strategy to report to Congress.

IV. MODELS FOR COUNCIL PROCESS:

Mr. Izzo noted that two Federal programs, the NAWCA Program for Migratory Birds and the Coastal Wetlands Planning, Protection and Restoration Act (better known as the Breaux Bill), are in many ways similar to the Estuary Habitat Restoration Program, including the fact that they operate with councils. He introduced speakers to describe the procedures followed by those programs, noting that, while this Council is not obliged to follow either model, there may be ideas for the Council to consider in establishing its own procedures.

A. NORTH AMERICAN WETLANDS CONSERVATION ACT PROGRAM FOR MIGRATORY BIRDS

Mr. Funderburk gave a presentation on the NAWCA Program for Migratory Birds, and distributed fact sheets on the program and charts on its process and activities (attached).

The North American Wetlands Conservation Act of 1989 (NAWCA) is a partnership among the U.S., Canada and Mexico. Projects implemented under this Act are cost-shared, with part of the Federal share coming from excise taxes on hunting and fishing equipment, Breaux Bill funds, and settlements from oil spills.

The North American Wetlands Conservation Council, which oversees the program and makes recommendations on projects, consists of 9 members from Federal agencies, State Fish & Game Departments, and non-government organizations. The Council holds public meetings, and criteria for projects are spelled out in law.

Questions elicited the following points:

Project proposals selected, but not funded, in one year, could be carried over to the next. Also, projects funded in one year could receive funding in the next.

The limit for projects is usually two years, but is often extended if there are extenuating circumstances.

Long-term monitoring has not been an integral part of the projects.

Both full-time and additional duty staff, including certified grant administrators, implement the program.

Staff funding comes from Department of the Interior general funds and from the 4% of the program funds used for administration.

The figures for restored acres of bird habitat are derived from grants documents and Government Performance and Results Act (GPRA) reports.

Mr. Gray commented on the issue facing the Estuary Habitat Restoration Council as to what kinds of projects to fund. Could the Council, for example, choose to fund an educational center? (NAWCA funds such centers in Mexico, but not in Canada or the U.S.) **Ms. Garman-Squier** referred to legislative language calling on the Council to promote estuary habitat restoration.

Mr. Gray asked if this meant projects had to “push dirt.” **Dr. Mary Matta**, NOAA, said the Act seemed to imply that. **Mr. Izzo** agreed, saying there are already plenty of interpretive centers, but the Council’s mandate is to restore 1 million acres of estuary habitat by 2010. **Mr. Wolf-Armstrong** also agreed, but allowed that the Council could fund interpretive centers from its administrative funds if it wished.

B. COASTAL WETLANDS PLANNING, PROTECTION & RESTORATION ACT (BREAUX BILL)

Ms. Ellen Cummings, U.S. Army Corps of Engineers, gave a presentation on procedures to implement this Act. (A fact sheet and organization charts are attached.)

About 80% of this program’s work is in Louisiana and the State is sole local sponsor. The governor sits on the program Council. The U.S. Fish & Wildlife Service has responsibility for the portion of the program’s work not in Louisiana. While it appears that the program’s organizational structure is complex, its processes are labor intensive, and both change from year to year, the participants find it is effective. Numerous projects have been successfully implemented. The review process includes input from academic advisors, helping ensure projects are based on sound science and engineering. Links between agencies and between government and academia are major program strengths.

Mr. Gray pointed out that processes would be the next major task for the Council after the Strategy. His advice is to keep the process simple – spend as much on moving dirt and as little on administration as possible, and ensure that local groups can get projects into the process.

C. DISCUSSION

Mr. Izzo read from Conference Report creating the Estuary Habitat Restoration program, noting that the Secretary of the Army’s responsibilities for the program are similar to those contained in the Water Resources Development Acts. He expects the Corps will develop a process for estuary projects similar to that for its other projects, but streamlined, since the Council will have reviewed and evaluated project proposals. He expects the Council process will be more like that of NAWCA than the Breaux Bill.

Mr. Gudes said processes should minimize administrative burden, and criteria should focus on project benefits. **Mr. Bolton** agreed, and suggested the Council limit administrative costs and avoid the need to staff up. **Mr. Izzo** pointed out that there needs to be someone to receive and review project proposals. **Ms. Schwartz** agreed that the NAWCA model is close to what the

Council wants, and suggested that projects go through scrutiny in the field before coming to the Council.

Mr. Gudes added that the process should get lots of local input, as the Breaux Bill program does. **Mr. Izzo** said NAWCA relies on local sponsors to put projects together, as this Council expects to do.

Dr. Mary Matta asked if the Council would like the Working Group to be involved in project prioritization. **Mr. Izzo** said it would. **Dr. Russell Bellmer, NOAA**, said the Working Group would also have to work with applicants, who have varying degrees of sophistication.

Ms. Garman-Squier summed up the Working Group's requirement for the next meeting, to produce a process for project input, and for review.

Dr. Mary Matta asked if the Council also wanted the Working Group to address what happens once a project is funded. **Mr. Izzo** said not yet. He pointed out that in developing processes, the Working Group should not slavishly follow either model presented, but could adopt good processes without having to "reinvent the wheel." He called on them to do the same good work they did producing the draft Strategy.

V. PUBLIC COMMENT:

Mr. Wolf-Armstrong, Restore America's Estuaries (RAE), congratulated the Working Group for its fast work on the draft Strategy, and the Bush Administration and Congress for appropriating program funds for FY 02. He recognizes that the FY 03 budget must meet other priorities, but said it would be a shame for the program to lose funding. The program has public support, and can do more good for coastal America than any other program. It can also provide a major gain to the Nation's economy – especially its seafood industry.

Mr. Rich Innes, Conservation Strategies L.L.C., stated that the Council had done a good job building the car and now needed the gas. This program provides a great opportunity for the Corps to change its practice and to work in a more collaborative fashion from the ground up. It is important for the leadership to seek the funds to implement the program.

Mr. Kerry Kehoe, Coastal States Organization, also congratulated the Council for its fast work on the draft Strategy. He warned that, relying only on appropriations, the Council would never meet its mandate to restore 1 million acres by 2010; the only way to accomplish that is to pull together activities that are already ongoing elsewhere.

Development of a strategy, he said, should be independent of the project selection process. Strategies will also differ among regions, as they do in NAWCA, so the Council needs to bring regional stakeholders into its strategy development.

The Act, he said, calls for maximum habitat restoration benefits. How will that be measured?

Mr. Wolf-Armstrong agreed that the Act is about more than appropriations and projects.

There being no further public comment the meeting was adjourned at 11:50 a.m.